

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	09/965,410	BOUTEILLER ET AL.	
	Examiner	Art Unit	
	Kevin C Kianni	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 2/23/04.
2.  The allowed claim(s) is/are 1,4-8,11-15 and 17-20.
3.  The drawings filed on 27 September 2001 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

- Acknowledgement made of applicant's canceling of claims 2, 3, 9, 10 and 16 in the paper submitted on 2/23/2004.

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. M. Morra on a telephone conversation on 5/18/04 in order to correct the dependency of relevant claims and thus to have the case in an allowable condition.

In the 1<sup>st</sup> line of claim 4 replace [claim 3] with claim 1

In the 1<sup>st</sup> line of claim 5 replace [claim 3] with claim 1

In the 1<sup>st</sup> line of claim 11 replace [clam 10] with claim 8

In the 1<sup>st</sup> line of claim 12 replace [claim 10] with claim 8

In the 1<sup>st</sup> line of claim 17 replace [claim 16] with claim 15.

### ***Reason for Allowance***

2. Claims 1, 4-8, 11-15 and 17-20 are allowed for the following reasons:

The instant application is deemed to be directed to a nonobvious improvement over the inventions patented in Pat. No. Putnam et al. (US 6594288).

Claim 1, 8 and 15 are allowed because the prior art of record, taken alone or in combination, fails to disclose or render obvious wherein the at least one adjustable output coupler is coated with a metal coating in such a way that the reflectivity of the at least one adjustable output coupler varies in response to applying stress, heat or electrical power to the metal coating in combination with the rest of the limitations of the base claim. Claims 4-7, 11-14 and 17-20, consecutively, depend on claims 1, 8 and 15 and therefore they are also allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**C ontact Information**

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to K. Cyrus Kianni whose telephone number is (571) 272-2417.

The examiner can normally be reached on Monday through Friday from 8:30 a.m. to 6:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font, can be reached at (571) 272-2415.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9306 (for formal communications intended for entry)

**or:**

Hand delivered responses should be brought to Crystal Plaza 4, 2021 South Clark Place, Arlington, VA., Fourth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-0956.



K. Cyrus Kianni  
Patent Examiner  
Group Art Unit 2877

Frank Font  
Supervisory Patent Examiner  
Group Art Unit 2877

May 18, 2004